

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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|--------------------------|---|---------------------------------------|
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| UNITED STATES OF AMERICA | : | |
| | : | CASE NO. 5:05 CR 131 |
| Plaintiff | : | |
| | : | |
| -VS- | : | |
| | : | |
| DUNCAN RAPP | : | <u>ORDER ACCEPTING PLEA AGREEMENT</u> |
| | : | <u>AND JUDGMENT AND NOTICE OF</u> |
| Defendant | : | <u>HEARING</u> |
| ----- | : | |

UNITED STATES DISTRICT JUDGE LESLEY WELLS

This case is before the Court on a Report and Recommendation filed by United States Magistrate Judge James S. Gallas regarding the change of plea hearing and plea agreement of Duncan Rapp which was referred to the Magistrate Judge with the consent of the parties.

On 16 March 2005, the government filed a three-count indictment against Duncan Rapp for conspiracy to possess with the intent to distribute and distribution of a controlled substance in violation of 21 U.S.C. § 846, 21 U.S.C. § 841(a)(1), 21 U.S.C. § 841(b)(1)(B) and 18 U.S.C. § 2. On 14 April 2005, a hearing was held in which Duncan Rapp entered a plea of not guilty before Magistrate Judge James S. Gallas. On 19 April 2006, Magistrate Judge Gallas received Duncan Rapp's plea of guilty and issued a Report and Recommendation ("R&R") concerning whether the plea should be accepted and a finding of guilty entered

Neither party submitted objections to the Magistrate Judge's R&R in the ten days after it was issued.

On de novo review of the record, the Magistrate Judge's R&R is adopted. Duncan Rapp is found to be competent to enter a plea. He understands his constitutional rights. He is aware of the charges and of the consequences of entering a plea. There is an adequate factual basis for the plea. The Court finds the plea was entered knowingly, intelligently, and voluntarily. The plea agreement is approved.

Therefore, Duncan Rapp is adjudged guilty of Counts One, Thirteen, and Sixteen in violation of 21 U.S.C. § 846, 21 U.S.C. § 841(a)(1), 21 U.S.C. § 841(b)(1)(B) and 18 U.S.C. § 2.

Sentencing will be:

31 July 2006 at 11:00 a.m.

**Courtroom 18-A
18th Floor the United States District Court
801 West Superior Avenue
Cleveland, Ohio 44113**

IT IS SO ORDERED.

/s/Lesley Wells
UNITED STATES DISTRICT JUDGE

Dated: 16 May 2006